

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

Anthony Gay  
Plaintiff

VS.

Marvin Powers  
Defendant

No 11-20-GPM

**FILED**

JAN 10 2011

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE

CAUSE OF ACTION FOR DELIBERATE INDIFFERENCE  
AND INTENTIONAL INFLICTION OF EMOTIONAL  
DISTRESS (state tort claim)

Now comes plaintiff Anthony Gay filing this cause of  
action "Under Imminent danger" on the following grounds:

1. I, Anthony Gay am the plaintiff in this cause of action  
and was at all times pertinent as inmate in Tamm Correctional  
Center.
2. The Defendant Marvin Powers is a medical doctor at Tamm  
Correctional Center and was at all times pertinent a  
medical doctor at Tamm Correctional Center.

COUNT I DELIBERATE INDIFFERENCE TO SERIOUS  
MEDICAL NEEDS

3. On August 27, 2010 at approximately 3:20 p.m. plaintiff  
cut himself on his right inner thigh approximately 1 1/4  
long and 1/4 deep. Subsequently at 4:30 p.m. plaintiff  
was placed on crisis watch on B-1# in cell 1#.

4. At approximately 11:15 pm several officers made rounds on plaintiff's wing conducting count. Plaintiff overheard one of the officers ask the other officer was plaintiff on finger food. He replied no, it says on the board he's on mealworm. (Mealworm is an unappetizing diet that look like feces and taste like dog food. The purpose and ~~intended~~ intended effect of such a diet is to discipline a recalcitrant by debilitating him physically. Without food, his strength and mental alertness begin to decline immediately.) Plaintiff inquired with the officer as to if plaintiff was placed on mealworm. The officer said, yes. (Plaintiff was placed on mealworm for cutting himself). This caused plaintiff so much emotional distress plaintiff sliced the left side of his scrotum (approximately 1 1/2" in diameter) open causing the outer edge of his testicle to be exposed.

5. At approximately 12:45 am (August 28, 2010) several nurses tried to close the injury but was unsuccessful.

6. At approximately 1:44 am Defendant powers was notified via phone by nurse Dunn of plaintiff's injury. The defendant powers knew plaintiff's injury required sutures but refused to come in and suture plaintiff's injury or send plaintiff to the hospital to have it sutured. Defendant powers indicated to nurse Dunn, he would see plaintiff Monday (8-30-10)

7. Subsequently (8-28-10) plaintiff cut his testicle and removed it from his scrotum and tied it to the door. Defendant powers was notified of plaintiff's injury but didn't send plaintiff to the hospital or come in to treat and suture plaintiff's injury.

8. Defendant powers didn't suture and treat plaintiff's injury until August 30, 2010.

9. Due to Defendant powers Substandard treatment the plaintiff's incision has not properly healed. In addition plaintiff's testicle swollen up to the size of a ~~red~~ baseball.

10. On September 13, 2010 The Defendant powers Examined plaintiff and observed the incision hasn't properly healed and the swelling. Defendant powers ~~also~~ angrily stated, "Why don't you cut your nuts out and flush them down the toilet so we don't have to deal with this!"

11. On September 30, 2010 plaintiff was transferred to Hawthorn Regional. The urologist recommended plaintiff be brought back for surgery. The defendant powers has disregarded this urologist recommendation.

12. The plaintiff's testicle is smaller to the size of a baseball. It's causing plaintiff continuous pain. The defendant powers refuses to provide plaintiff pain medication to alleviate the pain. And he's falsifying plaintiff's records indicating the injury is resolving but it's not. This is being did to punish plaintiff and make plaintiff suffer.

## COUNT II INTENTIONAL INFLICTION OF EMOTIONAL

### DISTRESS (state tort claim)

13. Plaintiff re-alleges paragraphs 1<sup>st</sup> thru 12<sup>th</sup>

### RELIEF REQUESTED

A. That plaintiff be Examined by a urologist and provided treatment consistent with the urologist recommendation (injunctive relief)

B. That plaintiff be awarded compensatory And punitive damages.

## APPENDIX

**Heartland Regional Medical Center**

3333 W. DeYoung  
Marion, IL 62959  
618 998 7000

**CONSULTATION****Name:** GAY, ANTHONY T

MRN:	423698	Room #:	DOB:	08/19/1974
Account #:	6012980	Bed #:	Age:	36 Y
Service Code:	EOP		Sex:	M
ADM DATE:	09/30/2010		DOS:	09/30/2010

Dictated By: Hatchett Lawrence, MD  
Attending Physician: TODD ENGDAHL  
Primary Care Physician: PRIMARY CARE UNKNOWN, PHY

REFERRING PHYSICIAN: Todd Engdahl, MD.

CONSULTING PHYSICIAN: Lawrence Hatchett, MD.

CHIEF COMPLAINT: Left hydrocele/possible cellulitis.

**HISTORY:** This is a 36-year-old black male that is at the Tamms Supermax Correctional Center. He has a history of being a chronic cutter. He has cuts all over his body, and supposedly last week, he made an incision in his left scrotum enough to pull off the testicle and to put a string around his cord and to tie it to the door. Supposedly, the physician at Tamms repaired the scrotal laceration. He subsequently developed some swelling. He was put on Bactrim, and he is now on doxycycline. He is now transferred to Heartland Regional Medical Center for persistent scrotal swelling. He denies any fevers or chills.

His scrotal ultrasound showed that he has a loculated left hydrocele but normal-looking left testicle with normal blood flow. There is no evidence of a scrotal abscess, but there is some edema of the skin. His CBC shows a normal white blood count with no left shift, but he is anemic, and this is most likely due to him being a chronic cutter. He denies any history of sickle cell trait or sickle cell disease.

PAST MEDICAL HISTORY: Negative.

PAST SURGICAL HISTORY: Repair of lacerations.

MEDICATIONS: Doxycycline 100 mg b.i.d.

FAMILY AND SOCIAL HISTORY: Unremarkable.

**PHYSICAL EXAMINATION:**

Vital Signs: 165/65, pulse 65, respirations 17, temperature 98.1.

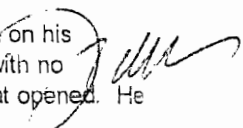
HEENT: Pupils equal, round, reactive. Extraocular movements intact.

Lungs: Clear.

Cardiovascular: Regular rate and rhythm.

Abdomen: Soft, nontender, nondistended. No masses.

Genitalia: Reveals swelling of the foreskin from a previous cellulitis from incision that he made on his foreskin. The foreskin now has chronic edema. His scrotum shows swelling on the left side with no evidence of an abscess, but he has some inflammation of the skin from a previous incision that opened. He

MD REVIEW: 

DATE: 10/2/2010

☐ PULL CHART☐ SEE PATIENT☒ FILE

NURSE REPORT:

## CONSULTATION

Name: GAY, ANTHONY T

MRN: 423698  
Account #: 6012980

DOB: 08/19/1974  
ADM DATE: 09/30/2010

has some dead tissue in the incision where the incision has previously opened up and is trying to close secondarily. There is some inflammation of the underlying foreskin but is just in that superficial skin and not in the deep scrotum.

I used Hibiclens, and I cleaned the incision thoroughly. The tissue was nice and pink after I just cleaned with Hibiclens.

### IMPRESSION:

1. Superficial wound infection which is healing secondarily.
2. Left complex hydrocele.

PLAN: I strongly urge Dr. Powers at Tamms comes to agree to allow me to bring this patient back in about a month to perform a left hydrocelectomy at Heartland Regional Medical Center. The patient has already mentioned that he would consider draining the hydrocele himself, and I think he would definitely do so. He has agreed to allow me to surgically repair the hydrocele, and he also agreed that he would not try to pull the stitches out. I, therefore, think it in the best interest of every one that we agree to do the surgery; otherwise, if he develops a scrotal abscess from him trying to do some type of drainage procedure, he will be in the hospital for numerous days and require surgery as well.

This document is electronically signed by: Lawrence Hatchett MD on 10/06/2010 at 3:10:52 PM (CST)  
Verification: 3884232720101006151052.

LAWRENCE HATCHETT, MD

Print CC: Todd Engdahl, MD

Dr. Powers Tamms Correctional Center 200 East Supermax Road. PO Box 400 Tamms, Illinois

Fax CC:

D Date/Time: 09/30/2010 02:24 PM CT  
T Date/Time: 09/30/2010 11:56 PM CT  
S Job #: HRMC38842327  
D Job #: 5029138  
MT: 186452

*Seen twice since 30 Sept 2010 visit to  
Dr Hatchett (infection resolved, and on 07 October 2010)  
The left scrotal enlargement is resolving  
and consistent with the Hatchett office's notes,  
with minimal scrotal enlargement.*

*15 Oct 2010*

MD RE/REV -

DATE: 10 Oct 2010

☐ PULL CHART

☐ SEE PATIENT

☒ FILE

INITIALS: [Signature]

DATE: 10 Oct 2010